

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JESUS MANUEL DIAZ,

Plaintiff,

v.

Civ. No. 22-429 JCH/GBW

UNITED STATES OF AMERICA,

Defendant.

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

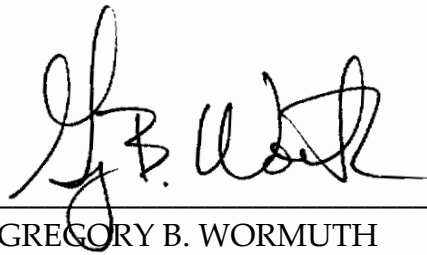
THIS MATTER is before the Court on Plaintiff's Motion Requesting Appointment of Counsel. *Doc. 7*. Having reviewed the motion, the Court finds that it should be DENIED WITHOUT PREJUDICE.

Although there is no constitutional right to appointed counsel in a civil case, a Court may "request" that an attorney represent a *pro se* plaintiff. *Rachel v. Troutt*, 820 F.3d 390, 397 (10th Cir. 2016). When deciding whether to request counsel for a *pro se* plaintiff, the Court will examine "the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims." *Williams v. Meese*, 926 F. 2d 994, 996 (10th Cir. 1991). The decision to request counsel is left to the discretion of the district court. *Rachel*, 820 F.3d at 397.

Plaintiff argues that he requires the Court to request him counsel because he cannot afford his own counsel and because he is unable to respond to motions and court orders in a timely manner given his immigration status. *Doc. 7* at 1-2, 4. The Court is not persuaded by these arguments because Plaintiff's request for counsel fails under at least three of the *Williams* factors. The legal allegations in Plaintiff's Complaint are not particularly complex or novel. *See generally doc. 1*. More importantly, Plaintiff's claims have not survived initial screening so it is at least questionable whether Plaintiff will prevail on the facts and merits of his case. Given the high demands and limited resources for attorney representation in this District, the Court declines to request counsel for Plaintiff at this time. However, Plaintiff may renew his motion for appointment of counsel if his claims survive screening.

Therefore, IT IS HEREBY ORDERED that Petitioner's Motion Requesting Appointment of Counsel (*doc. 7*) is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'G.B. Wormuth', is written over a horizontal line.

GREGORY B. WORMUTH
CHIEF UNITED STATES MAGISTRATE JUDGE